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10/569,317	02/22/2006	Jiecai Gan	NFE105	7888
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GLOBAL IP SERVICES 7285 W. Eagle Court Winton, CA 95388			EXAMINER  YOUNKINS, KAREN L	
			ART UNIT	PAPER NUMBER
			3751	
			MAIL DATE	DELIVERY MODE
			11/02/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

10/569,317

### Applicant(s)

GAN, JIECAI

### Examiner

KAREN YOUNKINS

### Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15, 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to the amendment filed 6/24/2009. Responsive to the amendment, claims 14, 16, 18, and 24-28 are cancelled. Claims 11-13, 15, 17, and 19-23 are currently pending in the case.

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it includes legal phraseology such as "comprises," and it is not in proper idiomatic English. Correction is required. See MPEP § 608.01(b).

3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not

clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: The term 'conduct' is used throughout the specification as a non-art known term. The term 'adjustable' is used to describe the operation of the air valve 44, however the air valve 44 is only disclosed as being rotatable about its pivot (page 5). The term 'adjustable' is an inappropriate term to describe this operation.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 11-13, 15, 17, and 19-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed limitation of 'through holes' as required in claim 11 line 14 was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. On page 2 of the specification, applicant discloses the through holes are "to suck also air in toilets so that to realize vent of air in the toilet." This description does not enable one skilled in the art to make the invention, as the through holes are disposed at the bottom of the inner chamber, not in the toilet. Further, on page 5 under the title 'Embodiment 2,' the applicant states "the

chamber to the room 412 has at its bottom a through hole 45 toward to the toilet". This statement is not enabling, the limitation 'toward the toilet' could mean a number of different configurations, each with their own resulting structure.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-13, 15, 17, and 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. These grammatical and idiomatic errors render the claims indefinite, for example the language "divides said outlet of inner chamber into two parts of outlet, thereby one chamber with one part of outlet are connected with the water closet" as set forth in claim 13 is indefinite.

10. Claim 11 recites the limitation "the through holes" in Page 3. There is insufficient antecedent basis for this limitation in the claim.

11. Regarding claim 1, the language "each inlet is connected with a water closet in a toilet through a duct" renders the claim indefinite. It is unclear what the relationship between water closet and toilet is. Currently the applicant has set forth in the claim that they are different elements, however the specification does not disclose the watercloset being separate from the toilet. Further, it is unclear what portion of the system the claimed 'duct' is referring to as this is not discussed in the specification. For the

purposes of examination the examiner assumed that an inlet of the air dividing case is connected to a toilet/water closet satisfies this limitation.

12. Claim 13 recites "the exhausting apparatus is installed on a ceiling of the toilet". This limitation renders the claim unclear. The examiner is unaware of any art specific meaning of a ceiling on a toilet, nor is one defined in the specification. Further, as depicted in figure 1 the exhausting apparatus of the present invention is disclosed as being installed on a ceiling of a room housing a toilet, not on a toilet.

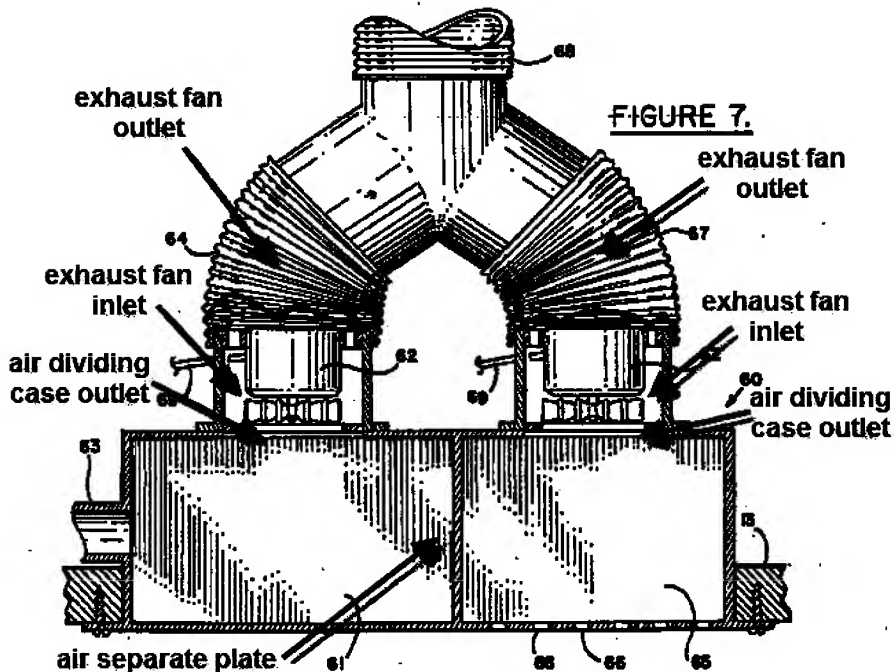
13. As best understood and for the purposes of examination, the examiner assumes that the 'through holes' connect the air dividing case to the air within the room containing the toilet and/or water closet(s), and that the exhausting apparatus is installed on a ceiling of room housing a toilet. The claims are examined as best understood.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 11-13, 15-16, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,010,600 to Prisco in view of U.S. Patent No. 5,029,316 to Fernald, Sr. (Fernald).



16. With reference to claims 11-13, and 23, Prisco discloses, with attention drawn particularly the embodiment disclosed in figure 7, an exhausting apparatus with an air dividing case (surrounding compartments 61 and 65) for a water closet (10) comprising an air dividing case having an inner chamber (61/65) with an outlet (see examiner annotated drawing above) and an inlet (via 63) connected with a water closet (see column 4 lines 12-14). The exhausting apparatus also includes an exhaust fan (62) with an outlet and inlet connected with the outlet of said inner chamber (see examiner annotated drawing above). The outlet of the exhaust fan is connected to the outdoors

through a duct (67), see column 4 lines 16-22. Further, Prisco discloses the inner chamber having through holes via the screened openings 66. The screen/'lid' covering the openings is 'moveable' on and off of the openings. The inner chamber has an 'air separate plate' inside of it, see examiner annotated drawing above. The 'air separate plate' divides the inner chamber into two chambers (61 and 65) such that one chamber (61) leads to the water closet (10). Prisco also discloses the use of the 'air separate plate' dividing the inner chamber into dual compartments may be required in rooms having a plurality of toilets, see column 4 lines 22-24. Further, the outlet is separated by the air separate plate into two parts to the extent claimed, the through hole opens to the toilet 'directly', and the apparatus is installed on a ceiling of a room housing a toilet (see figure 1).

Prisco fails to show an air valve located between the inner chamber inlet and the inner chamber. Prisco also fails to disclose the second chamber (65) leading to another water closet/toilet.

Fernald teaches an air valve (36) as claimed, see column 4 lines 17-24. The air valve (36) is located between the inlet (designated by arrow pointing towards 70 in Figure 1) and an inner chamber (48). Fernald teaches the use of such an air valve results in prevention of air entering the inner chamber when it is not in operation, see column 2 lines 5-10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the 'adjustable' air valve located between the inner chamber inlet and the inner chamber as taught by Fernald in the exhausting

apparatus of Prisco to prevent entry of air into the inner chamber when not operating. It would have been further obvious to have connected the second chamber 65 to another water closet/toilet, as Prisco discloses the chamber as claimed may be required in rooms having a plurality of toilets. Therefore, one part of the outlet is connected with one of the water closets (toilets) and the other part of the outlet is connected to the other water closet (toilet).

The initial statement of intended use (claim 1 line 2), and all other functional implications have been fully considered but do not appear to impose any patentably distinguishing structure over that disclosed by Prisco and Fernald.

17. In reference to claims 15 and 17, as discussed previously in pp-16 above, further Prisco discloses the use of the 'air separate plate' dividing the inner chamber into dual compartments may be required in rooms having a plurality of toilets, see column 4 lines 22-24. Therefore, it would have been obvious to have included two or three inlets on the inner chamber to connect to two or three toilets in the room. It would have also been obvious to have located the inlets on opposite sides of the air dividing case as claimed to utilize the dual chamber aspect of the exhausting apparatus.

18. In reference to claims 21-22, as previously discussed in pp-16 above, further Prisco fails to disclose the inlet of the inner chamber being connected via a duct to an overflow tube in the water tank of the flush closet. Instead, Prisco teaches the inlet of the inner chamber connected to the rear exhaust hole of the water closet.

With attention drawn to the embodiment disclosed in figures 6-8 of Fernald, Fernald teaches exhaust air being drawn out of an overflow tube (32) in the water tank (20) of a water closet via a duct (136) and into the inlet of an inner chamber (148).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified the exhausting apparatus of Prisco as discussed in pp-16 and 17 above by connecting the inlet of the inner chamber to an overflow tube in the water tank of the flush closet via a duct in order to avoid the unsightly connection of a conduit with the toilet's rear exhaust hole and inner chamber inlet.

19. Claims 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Prisco and Fernald as applied to claims 11 and 13 above, and further in view of USPN 4,165,544 to Barry.

20. As previously discussed in pp-16 above, further Prisco discloses the inlet of the inner chamber connected (via conduit 28/30/31) to the rear exhaust hole (20) of the water closet (10). Note, the exhaust leaves the water closet through the rear, s.f. 1.

Prisco fails to show the rear exhaust hole being T-type.

Barry teaches a T-type connector being known in the art to move air from a rear exhaust hole to an exhausting apparatus.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the exhausting apparatus of Prisco to have a T-type rear exhaust hole to accommodate for various size constraints of the specific situation.

***Response to Arguments***

21. Applicant's arguments filed 6/24/2009 have been fully considered but they are not persuasive.
22. Applicant's arguments with respect to claims 19-20 have been considered but are moot in view of the new ground(s) of rejection.
23. The examiner acknowledges the applicant's statement on page 6 that a substitute specification and abstract have not yet been submitted due to financial considerations. As such, the previous objections relating to the specification still stand in this office action. It is noted that a substitute specification in proper idiomatic English will greatly aide the examiner in examining the case.
24. On page 6 and regarding the rejection under 35 USC 112 the applicant has asserted that "through holes" has been amended as through hole. However, it is noted that claim 11 still contains the limitation of "through holes" as set forth in the rejections under 35 USC 112 2<sup>nd</sup> Paragraph above.
25. On pages 8-9 the applicant has asserted that a prima facie case of obviousness has not been made regarding the 35 USC 103(a) rejection of claim 11 under Prisco in view of Fernald. It is noted that the examiner is unclear what applicant means by the statement "In opposite if using Fernald's one way valve to instead the regulation valve in the claim 1, the present invention will fail." The examiner believes a prima facie case of obviousness has been set forth in the rejection in the previous office action as well as above. As stated in pp-16, the motivation for including the air valve as taught by

Fernald in the device of Frisco is to prevent air from entering the inner chamber when it is not in operation (as taught by Fernald).

26. On page 10 the applicant has asserted that claim 13 and Prisco are different for a variety of reasons. This argument is not commensurate with the scope of the claim. The claim as currently written does not require the separate plate to not totally separate the inner chamber as two chambers.

27. On page 11 the applicant has asserted that the apparatus of the present invention can be used for one toilet having a plurality of water closets. This argument is not commensurate with the scope of the claims. Further, it is unclear to the examiner what the applicant means by this statement. As the examiner understands the instant application the invention can be used in a system with multiple toilets/waterclosets as shown in figure 1. Prisco also teaches that his invention may be used in a system having multiple toilets.

### ***Conclusion***

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN YOUNKINS whose telephone number is (571)270-7417. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory L. Huson/  
Supervisory Patent Examiner, Art Unit 3751

/K. Y./  
Examiner, Art Unit 3751